courier-journal.com Business
The Courier-Journal Louisville, Kentucky

Philip Morris' bond halved

Decision means states will get $2.6 billion payment today

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Associated Press

EDWARDSVILLE, Ill. — An Illinois judge yesterday cut in half — to $6 billion — the amount Philip Morris USA has to post before it can appeal a verdict over its marketing of light cigarettes.

The decision means Philip Morris will be able to make a $2.6 billion payment due today to 46 states, including Kentucky and Indiana, under the 1998 national tobacco settlement, company spokesman David Tovar said.

The ruling came less than a month after Philip Morris was told to pay $10.1 billion in a class-action lawsuit for misleading smokers that "light" cigarettes are less harmful than regular brands.

The maker of top-selling Marlboros had argued that having to post a $12 billion bond would bankrupt the company and render it unable to pay the states.

Indiana has been counting on a $52 million payment from Philip Morris as legislators try to create a two-year budget by the end of the month. The budget relies heavily on the tobacco money to pay for popular health initiatives, including an insurance program for poor children and a prescription-drug program for the low-income elderly.

Update

Last we knew:

Philip Morris USA complained it would be bankrupt and unable to make today's payment to 46 states under the 1998 national tobacco settlement if it was forced to post a $12 billion bond. The bond was required after the company lost a $10.1 billion verdict over the way it sold light cigarettes.

The latest:

The bond was cut in half by the Illinois judge overseeing the case.

Why it's news:

Kentucky and Indiana have been counting on the payment to finance a range of state services.

For more info:

www.lightcigaretteclassaction.com

www.philipmorrisusa.com

John-Mark Hack, executive director of the Kentucky governor's Office of Agricultural Policy, said Philip Morris pays about half the $120 million a year the state gets under the agreement.

About half of the settlement money goes toward encouraging alternative crops. The rest goes toward early childhood development initiatives, lung cancer research, a high-risk-insurance pool, a substance-abuse program and programs to prevent smoking or help people quit.

"The impact would have been severe" on those programs, Hack said, if Philip Morris had defaulted.

Madison County Judge Nicholas Byron ordered the tobacco giant to deposit $6 billion in escrow to begin its appeal. Byron also ordered Philip Morris to pay $800 million during the first year of the appeal and $420 million a year in interest as the case winds its way through court.

The reduced bond takes the place of the $12 billion bond Byron originally ordered. That amount was for the judgment, plus costs and interest accrued during the appeal, as required by state law.

Plaintiffs attorney Stephen Tillery said he will appeal Byron's order, contending that Philip Morris can afford to post the full bond.

"At the end of the day, when this case is upheld on appeal, I believe there won't be enough money" to cover the $10.1 billion judgment, he said.

After the hearing, Philip Morris issued a statement calling the ruling "an onerous but viable solution to this issue."

Byron ordered the $800 million in cash payable in four equal quarterly installments of $200 million beginning in September.

A spokesman for Oklahoma Attorney General Drew Edmondson, president of the National Association of Attorneys General, called the decision "good news."

"We appreciate the judge's decision, and we think that the attorneys general did the right thing by expressing the severity of potential damage to the states the original bond might have caused," spokesman Charles Price said.

The appeals bond was required by Illinois law before Philip Morris can appeal the verdict.

But Philip Morris said it could not afford to pay such an amount.

Last week, Byron ordered the two sides to strike a deal that would keep Philip Morris in business and protect the interests of the 1 million smokers who prevailed in last month's lawsuit.

Under the 1998 tobacco settlement, several tobacco companies, including Philip Morris, agreed to pay 46 states $206 billion over 25 years. Philip Morris controls about half of the U.S. cigarette market.

But William Ohlemeyer, Philip Morris' vice president and general counsel, warned that although today's payment would be made, future payments under the 1998 agreement might be jeopardized if the company is again hit with what it considers an unpayable bill.

Philip Morris has lobbied in several states, including Illinois, for caps on appeal bonds. It is defending itself against lawsuits in several states, each of which could cost billions in damages if plaintiffs prevail.

"This is an issue that could arise again if states aren't a little more interested in passing the kinds of laws . . . that cap the bonds that need to be posted to appeal," Ohlemeyer said.

The ruling was issued late in the trading day. Philip Morris parent Altria Group's shares rose 89 cents, or 3 percent, to close at $31.48 on the New York Stock Exchange.

Staff writer David Goetz contributed to this story.

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